

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS, EASTERN DIVISION**

VICTOR BROOKS,)	
)	
Plaintiff,)	No. 08 CV 2417
)	
v.)	The Hon. James B. Zagel
)	
LISA MADIGAN, Illinois Attorney)	
General, <i>et al.</i>)	
)	
Defendants.)	

DEFENDANTS' RULE 12(b)(1) and (6) MOTION TO DISMISS

NOW COME MARK ROSS, personally and in his official capacity as an Illinois State Police Investigator; JOSEPH PONSETTO, personally and in his official capacity as an Assistant Illinois Attorney General, EDWARD C. CARTER, III, personally and in his official capacity as an Assistant Attorney General, JORGE L. MONTES, personally and in his official capacity as a Member of the Illinois Prisoner Review Board, NORMAN A. SULA personally and in his capacity as an employee of the Illinois Prisoner Review Board, and KENNETH D. TUPY, personally and in his capacity as an employee of the Prisoner Review Board ("Defendants"), by their attorney, LISA MADIGAN, Attorney General of the State of Illinois, and respectfully submit their motion to dismiss pursuant to 12(b)(1) and (6). In support thereof, the Defendants state as follows:

1. Plaintiff's First Amended Complaint alleges numerous claims against six Defendants. *See* First Am. Compl. While the Plaintiff has organized these claims into particular counts, he does not specify which claims are directed at each Defendant. *See, e.g.,* First Am. Compl. at ¶ 108 at 23 (alleging that "one or more of the Defendants"

knowingly and intentionally withheld information and/or evidence necessary for his fair and impartial trial in violation of his constitutional rights”).

2. The Defendants respectfully move under R. 12 (b)(1) to dismiss the Complaint for lack of subject matter jurisdiction and other immunities.
3. The Defendants also respectfully move to dismiss the Complaint for failure to state a claim under R. 12 (b)(6) and pursuant to *Bell Atlantic v. Twombly*.
4. The Defendants will file concurrently a memorandum of law in support of this motion.

August 18, 2008

Respectfully submitted,

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Attorney General of Illinois

/s/ Allan V. Abinoja
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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of this brief was served upon all parties of record this 18th day of August, 2008 by electronic filing pursuant to Rule XI of the General Order On Electronic Case Filing.

/s/ Allan V. Abinoja